

## Consolidated List of FLASH Notices published through September 28, 2012

### April 12, 2011

There have been some questions about the approval/signature level for the Service Contract Approval (SCA).

The SCA must be signed by a General Officer or SES, UNLESS the requirement is \$100K or less and the GO/SES has delegated the authority. The delegation can take the form of a one time delegation or through a blanket delegation (e.g. as IMCOM has done with their USAG Commanders). There is no delegation criteria specified (rank or position) in the AFARS and it is therefore left up to the GO/SES to decide the appropriate level at which they will delegate the authority for those buys.

If a delegated individual is unavailable at the time a SCA requires signature, and has a Deputy or has assigned someone to act on their behalf, that individual can assume the roles responsibilities of the delegated individual and approve/sign the SCA. This is true as long as there are no customer internal organization policies that prohibit it.

### May 11, 2011

We have received additional guidance as it relates to the 24 November 2010 DPAP memo regarding the 30 day solicitation period and price negotiation requirements.

The amplifying guidance provided in the attached memo adjusts the original guidance to state:

1. If a solicitation is out for fewer than 30 days and only one offer is received, the contracting office shall cancel and re-solicit for an additional period of at least 30 days.
2. If a solicitation is open for at least 30 days and only one offer is received, the KO shall use price or cost analysis to make a fair and reasonable price determination. If the KO determines that negotiations are necessary, the basis for these negotiations shall either be certified cost or pricing data or data other than certified cost or pricing data, as appropriate.
3. It applies to all procurements above the SAT (services, supplies, and construction).
4. It applies to FAR/DFAR parts 8.4, 12, 13.5, 14, 15, and 16.5.

Please note, we are currently working with leadership to determine the need for the waiver and to define the internal protocols that the contracting offices will need to follow in order to be in compliance. There is an exception for 'emergency acquisitions' in this policy, for the 30 day solicitation period only, but until we finalize our local process, these exceptions will need to be identified through your chain of command to the PARC office for disposition.

Further guidance will be released in the near future.

Do not hesitate to contact the Policy and Compliance office with questions: [DL-409CSB-HQ-CMD-PARCPolicy@eur.army.mil](mailto:DL-409CSB-HQ-CMD-PARCPolicy@eur.army.mil).



Improving  
Competition in Defense

#### **August 4, 2011**

Attached is the list of the current thresholds and review levels as applicable to the 409th CSB. This is now the 409th's officially published threshold and review level list; as such, it is recommended that any locally developed threshold/approval lists be disposed of and this list be used exclusively.

We expect this list to be a living document and we will update it as situations change and updates to the thresholds are generated. Please note that this list may not be all inclusive, and we encourage suggestions for inclusions of thresholds not currently listed. Finally, if there is a conflict between this list and regulation or other policy, the most current regulation or other policy takes precedence over this list.

Please feel free to let us know if we need to make changes or if you have any questions about the information contained in the document. The PARC Policy and Compliance e-mail is [DL-409CSB-HQ-CMD-PARCPolicy@EUR.army.mil](mailto:DL-409CSB-HQ-CMD-PARCPolicy@EUR.army.mil) <<mailto:DL-409CSB-HQ-CMD-PARCPolicy@EUR.army.mil>>.



Thresholds as of  
8-3-11.pdf

#### **August 30, 2011**

Attached is the newly released ACC Contract File Internal Control Requirements for Independent Government Cost Estimates (IGCE) Desk Book; it replaces the ACC IGCE Desk Book. This new Desk Book identifies the minimum information that should be included in an IGCE to help standardize contract files across the Command, and it seeks to instill a higher level of credibility to the estimates developed.

Please note that IGCEs are required to be included in the contract file for any requirement that exceeds the SAT (reference - Army Regulation 70-13 and ACC Executive Director memorandum dated 19 August 2011).



image2011-08-29-10  
5135.pdf

#### **August 30, 2011**

Reminder and please make special note of item 2 below that states:

2. Each Contracting Office must complete all actions/awards NOT LATER THAN MIDNIGHT THE DAY PRIOR TO THE STATED CLOSING DATE FOR THEIR ASSOCIATED COMMAND. For example, Commands closing on 28 September must have all contracting actions/awards complete not later than midnight 27 September.



FY11 Staggered Year  
End Close Schedule R

#### **October 4, 2011**

Effective immediately, the attached contract file index shall be used for all contract files regardless of value or complexity. We realize that many of you have developed and are currently using different indices for your files, however, as of this message, those indices should be purged.

Many of you will ponder the logic of using an elongated index for simple buys. The answer is - this is what has been mandated for use to standardize contract files throughout the ACC command. The silver lining is, we (the PARC Policy and Compliance office) will be preparing a companion booklet to make the process of using this index less painful over the next few months. What we need from you is ideas for the types of information you believe would be beneficial to provide in this booklet. Please forward your ideas to [DL-409CSB-HQ-CMD-PARCPolicy@EUR.army.mil](mailto:DL-409CSB-HQ-CMD-PARCPolicy@EUR.army.mil) by 19 October.

Note, the intent of this booklet is to be a training aid for new employees and a reminder for those of us who have been working in contracting for a while. Ideas that we're currently throwing about are the index could contain reference points showing when certain items on the index apply or don't apply, checklists, templates for D&F's and other documents, and guidance for special situations. As always, please contact the PARC Policy and Compliance office at [DL-409CSB-HQ-CMD-PARCPolicy@EUR.ARMY.MIL](mailto:DL-409CSB-HQ-CMD-PARCPolicy@EUR.ARMY.MIL) if you have questions.

#### **January 3, 2012**

Hello. As you know, the authority to issue solicitations under FAR 13.5 expired on January 1, 2012. At this time, no guidance has been issued to extend this authority. This means that you have to use the procedures under FAR Parts 14 or 15 and cannot cite or use FAR 13.5 unless the authority gets extended. We will keep you informed. Thanks.

Please contact the PARC Policy and Compliance Team at [USARMY.Kaiserslautern.409-Contr-Spt-Bde.List.HQ-CMD-PAR@mail.mil](mailto:USARMY.Kaiserslautern.409-Contr-Spt-Bde.List.HQ-CMD-PAR@mail.mil) with any questions, comments, or input relating to policy and guidance.

#### **January 5, 2012 (REFLASH)**

Please see the attached DPAP memo that formally TERMINATES the Test Program under FAR 13.5.



USA007339-11-DPAP  
.pdf

#### **April 14, 2012 (REFLASH)**

Hello All. Thank you for all the questions we are getting in reference to the expiration of the Test Program under FAR 13.5, Jan 1, 2012.

Please, note that FAR 13.500(d) states that "Contracting officers may award contracts after the expiration of this authority for solicitations ISSUED BEFORE the expiration of the authority."

If the solicitation was prepared but not "issued," then, the KO cannot use the authority under FAR 13.5.

Please contact the PARC Policy and Compliance Team at [USARMY.Kaiserslautern.409-Contr-Spt-Bde.List.HQ-CMD-PAR@mail.mil](mailto:USARMY.Kaiserslautern.409-Contr-Spt-Bde.List.HQ-CMD-PAR@mail.mil) with any questions, comments, or input relating to policy and guidance.



PARC Policy Alert  
12-26.pdf

#### **April 18, 2012**

In accordance with the attached DASA(P) Memorandum, effectively immediately, contracting officers must include an Independent Government Cost Estimate (IGCE) in every procurement action over the SAT (\$150K) and, prior to accepting it, ensure that the IGCE:

1. contains enough detail to verify the validity of the contractor's proposal
2. provides sufficient narrative and analytical data, to include reference material
3. is signed by the preparer
4. is signed by the preparer's immediate supervisor
5. includes a signed certification that the IGCE was developed independently by the Government prior to seeking formal proposals from contractors

Understand that the clear intent of this memorandum is to ensure that IGCEs are properly substantiated. Preparing the IGCE is the responsibility of the requiring activity and as such we will forward these new guidelines to our customers through the Acquisition Planners. Please, forward to your CORs as well to ensure widest dissemination of this information. Your responsibility as a KO is to ensure compliance with the new guidelines.

Please direct all questions to the PARC Policy and Compliance Team at [USARMY.Kaiserslautern.409-Contr-Spt-Bde.List.HQ-CMD-PAR@mail.mil](mailto:USARMY.Kaiserslautern.409-Contr-Spt-Bde.List.HQ-CMD-PAR@mail.mil).



PARC Policy Alert  
12-26.pdf

### **April 19, 2012**

WHAT: DASA policy on IGCEs (attached), effective IMMEDIATELY.

IMPACT: Additional scrutiny is being placed on IGCEs due to a AAA audit, and KOs must verify that the items identified in the policy memo are complied with in development of IGCEs. The AFARS supplement is being revised to incorporate the changes.

MAJOR CHANGES: Eileen kindly provided a synopsis of the changes:

- 1) IGCEs must be signed by not only the preparer but also their supervisor.
- 2) Must be certified that they were prepared independently prior to seeking formal proposals from contractors.
- 3) Must be supported by sufficient narrative and analytical data (this has been an area of weakness for our customers in the past).

REMINDER: IGCEs are required for any procurement greater than the SAT, however, the KO has the discretion to require one for procurements estimated at less than the SAT.

OTHER: ACC IGCE Guidebook (located on the 409th CSB website).

Please contact the PARC Policy and Compliance office if you have questions.

### **June 5, 2012**

WHAT: Congressional Notification process is automated using ACBIS, effective IMMEDIATELY (4 June 2012).

IMPACT: None of the reporting requirements of DFARS 205.303 are changed by this process; the reporting process/procedures at AFARS 5105.303 will be modified in a forthcoming AFARS change to reflect this automated process.

MAJOR CHANGES: DASA(P) will no longer accept emailed or faxed notices. All notices of award in accordance with DFARS 205.303 and AFARS 5105.303 must be submitted to the DASA(P) using the automated Congressional Notification process outlined in the email message below.

REMINDER: For DoD awards, Congressional Notification is required for all contractual actions, including modifications, that have a face value, excluding unexercised options, of more than \$6.5 million. Additionally, contracts awarded to foreign vendors for overseas performance are excluded from this reporting requirement. Also exempt are contracts placed with the Small business Administration 8(a) Program and those contracts for which synopsis was exempt under FAR 5.202(a)(1)(National Security). See FAR 5.303 and DFARS 205.303.

OTHER: The paper notification prohibition is "waivable" but only in certain situations beyond the control of the reporting KO. The below e-mail lists some points to remember regarding the submission of award notifications. They are very useful, please, read.

Please contact the PARC Policy and Compliance office at [USARMY.Kaiserslautern.409-Contr-Spt-Bde.List.HQ-CMD-PAR@mail.mil](mailto:USARMY.Kaiserslautern.409-Contr-Spt-Bde.List.HQ-CMD-PAR@mail.mil) if you have questions. Thanks.



Congressional  
Notification Form (AC)

### **June 8, 2012**

WHAT: Effective 23 January 2012, contracting offices may not use funds made available by Division A of the Consolidated Appropriations Act, 2012 (<http://www.gpo.gov/fdsys/pkg/PLAW-112publ74/pdf/PLAW-112publ74.pdf>), to enter into a contract with any corporation which has any unpaid Federal tax liability OR was convicted of a felony criminal violation under any Federal law within the preceding 24 months.

IMPACT: Contracting officers shall include the provision 252.209-7999 (attached here in a Word format) in all solicitations that will use funds made available by Division A of the Consolidated Appropriation Act, 2012, (appropriated funds) including solicitations for acquisitions of commercial items under FAR Part 12. Contracting officers shall not award a contract to any corporation who provides an affirmative response to the representation in the provision, unless the agency suspension and debarment official has made a written determination that suspension or debarment is not necessary to protect the interests of the Government.

OTHER: This class deviation remains in effect until incorporated into the FAR or DFARS, or is otherwise rescinded.

Please contact the PARC Policy and Compliance office if you have questions: [usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil](mailto:usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil).



252.209-7999  
Provision.docx



USA007336-11-DPAP  
.PDF

### **June 8, 2012**

\*\* There have been a number of taskers and requests for information sent forth for CTIP recently, this email serves as a reminder that the CTIP clause needs to be included in ALL solicitations and contracts. \*\*

WHAT: Combating Trafficking in Persons (CTIP) clause 52.222-50.

IMPACT: Contracting offices must include the CTIP clause 52.222-50 in ALL new solicitations and contracts. For any current, on-going contracts that did not include this clause at the time of award, modifications to incorporate the clause should have been completed by 11 April. If the necessary modifications have not yet been executed, they are required to be completed immediately.

OTHER: (1) For contracts that have expired or will expire within the next 90 days, a modification to incorporate the clause is not required. (2) ECC is currently working to verify with DASA that for commercial solicitations/contracts it is sufficient that CTIP is selected in clause 52.212-5.

Please contact the PARC Policy and Compliance office if you have questions:  
[usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil](mailto:usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil).

### **June 12, 2012**

WHAT: Effective 17 May 2012, Oracle's GSA Schedule 70, GS-35F-0009T, is cancelled in accordance with GSAR 552.238-73.

IMPACT: Ordering activities will not be able to exercise options on existing task orders or place new orders after May 17, 2012. Existing task orders may continue through the current period of performance and Blanket purchase agreements (BPAs) will terminate as of the cancellation date.

OTHER: Links for the cancellation notice are identified below. In addition, GSA POCs for further information about the cancellation, or information about other GSA contracts that have Oracle offerings, are identified below.

Please contact the PARC Policy and Compliance office if you have questions:  
[usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil](mailto:usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil).

### **June 12, 2012**

WHAT: Effective 29 May 2012, when making the determination required by the FAR prior to exercising an option, additional information about the contract shall be documented.

IMPACT: When applicable, the contracting officer shall also affirm in writing that:

(1) The contract/task order is registered in the Contractor Performance Assessment Reporting System (CPARS), a report on this contract/task order for the current period has been initiated and that report will be completed within 120 days following the end of the current performance period. (Reference: FAR 42.1502, Defense FAR Supplement (DFARS) 242.1502 and DoD Class Deviation 2011-00014 "Past Performance Reporting".)

(2) A properly trained Contracting Officer's Representative (COR) is appointed for the contract/task order, or the file documented to support retention of surveillance duties by the PCO. Monthly reports are complete and uploaded in the Virtual Contracting Enterprise COR tool (when fully deployed at your contracting activity), and any necessary corrective actions are fully documented.

(Reference: DFARS 201.602-2, DASA(P) Memorandum "DoD Standard for Certification of Contracting Officer's Representatives (COR) for Service Acquisitions" dated 29 Mar 2010, PARC/Policy Alert #10-18 and "Post Award Oversight and Surveillance of Contracts" dated 21 Oct 2010, PARC/Policy Alert #11-10.)

(3) A surveillance plan (to include a Quality Assurance Surveillance Plan) is prepared in conjunction with the Performance Work Statement and documented in writing when a COR is appointed unless specifically exempted in writing by the PCO. (Reference: FAR 37.603, 37.604, 46.102 and 46.401, DASA(P) Memorandum "Post Award Oversight and Surveillance of Contracts" dated 21 Oct 2010.)

OTHER: Army FAR Supplement 5117.207, "Exercise of Options", will be modified to incorporate these changes.

Please contact the PARC Policy and Compliance office if you have questions:  
[usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil](mailto:usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil).

#### **June 13, 2012 (REFLASH)**

CLARIFICATION: The current process used for commercial buys, using the embedded CTIP clause in 52.212-5, does not change based upon the information included below under OTHER, item (2). Until further guidance is received, incorporating the CTIP clause in this manner continues to be appropriate. The PARC Policy and Compliance office will notify the entire Command if/when the guidance changes.

#### **June 19, 2012**

WHAT: Effective 29 June 2011, DoD contracting offices shall use the below thresholds when collecting and using past performance information (class deviation memorandum attached).

#### **IMPACT:**

(1) Except as provided at FAR 15.304(c)(iii), evaluate past performance in source selections for negotiated competitive acquisitions expected to exceed the following thresholds:

- Systems and operations support acquisitions - \$5M
- For services and IT acquisitions - \$1M
- For all other acquisitions - SAT

(2) Except as provided at FAR 42.1502(e), (f), and (h), prepare an evaluation of contract performance at the same thresholds as those identified above.

OTHER: The class deviation is in effective until incorporated into the DFARS or otherwise rescinded.

Please contact the PARC Policy and Compliance office if you have questions:  
[usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil](mailto:usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil).





### July 17, 2012

WHAT: DFARS 215.371 titled Only one offer addresses acquisitions using competitive procedures in which only one offer is received.

IMPACT: DFARS 215.371 largely keeps intact guidance issued by Defense Procurement and Acquisition Policy (DPAP) in November 2010 and April 2011 under the subject of "Improving Competition in Defense Procurements."

It clarifies the following:

1. The appropriate application of FAR 15.403-1(c)(1)(ii) (Standards for adequate price competition). If there was "reasonable expectation .that two or more offerors, competing independently, would submit priced offers" but only one offer is received, this circumstance does not constitute adequate price competition unless an official at one level above the contracting officer (KO) approves the determination that the price is reasonable.
2. The circumstances in which it is necessary to request cost or pricing data when one offer is received. If the KO determines through cost or price analysis that the offered price is fair and reasonable and that either adequate competition exists (with approval of the determination at one level above the KO) or another exception to the requirement for certified cost or pricing data applies, then no further cost or pricing data is required. Otherwise, the KO shall obtain from the offeror cost or pricing data necessary to determine a fair and reasonable price. For acquisitions that exceed the cost or pricing data threshold, if no exception at FAR 15.403-1(c) applies, the cost or pricing data shall be certified. Note that when the latter situation applies, the KO shall enter into negotiations with the offeror to establish a fair and reasonable price.

It adds the following:

1. Exceptions to the 30-day re-solicitation requirement. (See DFARS 215.371-4)
2. DFARS Provision 252.215-7007, Notice of Intent to Resolicit, shall be used in competitive solicitations that will be solicited for fewer than 30 days, unless an exception applies. This provision notifies offerors that in the event only one offer is received, the contracting officer may cancel the solicitation and re-solicit for an additional period of at least 30 days. (See DFARS 215.408(3))
3. DFARS Provision 252.215-7008, Only One Offeror, shall be used in competitive solicitations unless an exception applies. This provision shall be used in conjunction with the provision at FAR 52.215-20, and puts offerors on notice that the contracting officer may require cost and price data in the event that only one offer is received and additional cost or pricing data is required either to

determine whether the price is fair and reasonable or to comply with the statutory requirement for certified cost and price data. (See DFARS 215.408(4))

OTHER: Please contact the PARC Policy and Compliance Team at [USARMY.Kaiserslautern.409-Contr-Spt-Bde.List.HQ-CMD-PAR@mail.mil](mailto:USARMY.Kaiserslautern.409-Contr-Spt-Bde.List.HQ-CMD-PAR@mail.mil) with any questions, comments, or input relating to policy and guidance.

Attached for your reference:

- Federal Register Notice for DFARS Case 2011-D013, Only One Offer



DFARS Case  
2011-D013 Only One

### **August 2, 2012**

WHAT: Anti-terrorism/Operational Security (AT/OPSEC) coversheet.

IMPACT: As of 1 July 2012 Contracting Offices must:

- (1) Ensure that requirements packages contain a signed AT/OPSEC coversheet.
- (2) Incorporate appropriate contract language included in the AT/OPSEC coversheet into contractual documents.
- (3) As appropriate, work with the requiring activities to refine and/or add protection measures/provisions/clauses into contractual documents.
- (4) Assist requiring activities by directing them to the appropriate technical AT/OPSEC experts, as needed.

This applies to ALL requirements EXCEPT supply contracts under SAT, field ordering officer actions, and Government purchase card purchases.

OTHER: Further information and implementing guidance for AT/OPSEC will be released shortly. Attached is a copy of the AT/OPSEC coversheet and Desk Reference.

Please contact the PARC Policy and Compliance office if you have questions: [usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil](mailto:usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil).



AT OPSEC  
Contracting FINAL.PC

### **August 2, 2012 (REFLASH)**

Please note that for any packages received prior to 1 July, the AT/OPSEC coversheet is not required (although could have been/be accepted).

## August 7, 2012

\*\* This requirement was reported in the DYK from 25 July 2011, and it now has updated elements as identified in the attached Federal Register Notice. \*\*

WHAT: Effective 27 August 2012, contractors must report executive compensation and first-tier subcontract awards on contracts greater than \$25K.

### IMPACT:

(1) This policy does NOT apply to contracts with individuals or classified contracts.

(2) There is a reporting exception in 52.204-10(d) for contractors and subcontracts who had gross income in the previous tax year under \$300,000.

(3) Contracting officers shall include the FAR clause at 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards, in accordance with FAR 4.1403, in solicitations issued on or after the effective date of this rule, and resultant contracts.

(4) Contracting officers shall modify, on a bilateral basis, in accordance with FAR 1.108(d)(3), existing contracts that include the FAR clause implemented in the interim rule dated July 2010, to require contractors to comply with the requirements of this final rule FAR clause, if the contractor will be required to provide another annual report. If the contracting officer is unable to negotiate this modification, the contracting officer shall obtain approval at least one level above the contracting officer to negotiate an alternative resolution.

(5) If the contractor fails to comply with the reporting requirements, the contracting officer shall exercise appropriate contractual remedies. In addition, the contracting officer shall make the contractor's failure to comply with the reporting requirements a part of the contractor's performance information under Subpart 42.15.

OTHER: The FAR states that contracts reported using the generic DUNS number allowed at FAR 4.605(b)(2) will interfere with the contractor's ability to comply with this reporting requirement, because the data will not pre-populate from FPDS.

Please contact the PARC Policy and Compliance office if you have questions:  
[usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil](mailto:usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil).



Reporting Executive  
Compensation and Fir

## August 22, 2012

WHAT: Effective 21 August 2012 (until further notice), a deviation is granted from the initial registration requirements of FAR 4.11 and DFARS 204.1103(2)(i), and the required use of annual representations and certifications per FAR 4.1201 and DFARS 204.1202. This is temporary deviation in order to give GSA time to resolve performance issues with the System for Award Management (SAM).

**IMPACT:**

- Except for awards using the GPC as the method of payment, KO's shall include the FAR clause 52.204-99 (included in the attached memo) in lieu of FAR clause 52.204-7 and DRAFS clause 252.204-7004 Alt A.
- Contractors are required to be registered in SAM prior to submitting invoices (versus prior to award), otherwise there will be problems with processing of payments through DFAS.
- If GPC is selected as the method of payment, the KO must still check SAM prior to award to ensure the prospective contractor does not have outstanding Federal debt.
- See modified guidance on the use of annual representations and certifications in the attached memo.
- The link to EPLS has been re-established to allow for KOs to complete the necessary check.

**OTHER:** Further guidance and/or the rescinding of this deviation will be released in the near future by DPAP.

Please contact the PARC Policy and Compliance office if you have questions:  
[usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil](mailto:usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil).



USA004926-12-DPAP  
.pdf

**August 23, 2012**

**WHAT:** Effective 20 August, the SCA document has been updated (8/10/12) and all previous versions are now obsolete.

**IMPACT:**

- Work with requiring activities to facilitate the use of the newest SCA version.
- The form may not be modified in any way, it can be supplemented with additional documents but may not be modified.
- Changes to the form are highlighted below.

**OTHER:** (1) Disseminate to requiring activities as appropriate. (2) An AFARS revision to further supplement the current AFARS citation will be forthcoming.

Please contact the PARC Policy and Compliance office if you have questions:  
[usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil](mailto:usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil).



SCAR Update Memo SCAR 10 Aug 12.pdf  
20 Aug 12.pdf



**September 17, 2012 (REFLASH)**

Please note that the AT/OPSEC coversheet is required for all new requirements, exercising of options, or when adding work to an effort. It is not required (but can be provided) when completing administrative modifications (such as adding incremental funding, updating LOAs, etc.). The purpose of providing the AT/OPSEC coversheet when exercising options is ensure a consistent methodology for capturing changes to the security environment (like the requirement for DD254's). When adding work to an effort, the AT/OPSEC coversheet is necessary to ensure that the security requirement(s) for the newly identified work is addressed.

### September 18, 2012

\*\*\* MAJOR IMPACT FOR THOSE WHO HAVE AWARDED OR PLAN TO AWARD A NEW SERVICE CONTRACT IN FY12 OR 13 WITH AN ESTIMATED VALUE > \$10M FOR EITHER YEAR \*\*\*

WHAT: Effective 31 July 2012, contracting offices shall implement Section 808 of the National Defense Authorization Act for FY 12, P.L. 112-81 as prescribed in the DPAP deviation. (DASA and ECC requested that information on this issue be held until implementing guidance was produced. We received implementing guidance from ECC Friday, 14 September 2012. NOTE: This does NOT mean that the requirement described below is waived for the time period between 31 July and 14 September.)

#### IMPACT:

Contracting Officers may not make any awards for services that exceed the FY10 rates and/or FY10 total annual cost (as defined below) without obtaining the Secretary of the Army approval.

(1) This is not applicable to

- R&D
- Test and Evaluation
- Military Construction
- Overseas Contingency operations
- Object Classification Codes 25.3 (other goods and services from Federal Sources) and 25.6 (Medical Care)
- Exercising of options on existing contracts (to include the -8 option)

(2) This is applicable to:

- Services
- NEW requirements that are estimated to be > \$10M in FY 12 or FY 13
- Commercial and non-commercial procurements
- For mixed procurements with commodities and services, it only applies to the services portion
- Sole source and competitive procurements

There are two parts to Section 808. Part one discusses rates and will usually only be applicable when dealing with Cost-type contracts. Part two applies to almost all acquisitions.

REFERENCES: Attached DPAP deviation, DFARS tracking number 2012-00012.

OTHER:

- (1) No further implementation guidance is expected from higher echelons.
- (2) Attached is a mandatory tool developed by ECC and modified by 409th PPC for making the determination for whether the Section is applicable to the acquisition; included is additional guidance for how to conduct the necessary comparisons.

Please contact the PARC Policy and Compliance office if you have questions:  
[usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil](mailto:usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil).



ECC Checklist for  
Service Contract Clas 2012-00012



Deviation



USA003691-12-DPAP



Sec 808 Temp

808 Class Deviation.p  
Limitation on Aggreg

### **October 23, 2012**

\*\*\* THE PPC OFFICE IS CURRENTLY ATTEMPTING TO OBTAIN CLARIFICATION FROM DASA ON THIS ISSUE, AS THERE IS NO MENTION OF A DFARS INCLUSION OR ANY FURTHER GUIDANCE. AT THIS TIME, 409TH STAFF IS REQUIRED TO COMPLY WITH THE REQUIREMENT UNTIL OTHERWISE NOTIFIED. \*\*\*

WHAT: Effective 31 August, a commerciality determination is required for all commercial buys.

IMPACT:

- (1) The \$1M threshold for commerciality determinations no longer exists, and contracting offices are required to document the file with a commerciality determination for all commercial buys.
- (2) KO's shall ensure adequacy of market research supporting the positive commercial item determination--see below for guidance on how to accomplish this.
- (3) KO's shall ensure sufficient market price history exists to support the determination of fair and reasonable price-- see below for guidance on how to accomplish this.
- (4) KO's shall ensure full documentation in the written determination and contract file to support the rationale used as the basis for the commerciality determination (and determination of fair and reasonable price).

OTHER: None at this time.

Please contact the PARC Policy and Compliance office if you have questions:  
[usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil](mailto:usarmy.kaiserslautern.409-contr-spt-bde.list.hq-cmd-par@mail.mil).

### **October 25, 2012 (REFLASH)**

BLUF: PARC Policy Alert # 12-66 requires the KO to prepare a D&F that the acquisition meets the commercial item definition in FAR 2.101 for ALL acquisitions, regardless of dollar value, that uses FAR part 12 procedures. This is an Army policy and only applies to contracts signed by an Army KO.

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Hello. ACC asked DASA(P) for clarification on how to implement this policy alert. Below are the questions from the field offices and DASA(P)'s responses. ECC realizes the impact this policy will have on workload and therefore will be requesting a reprieve from the policy for acquisitions below the SAT. But, until a reprieve is granted, comply with the current policy.

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1. Question: Does this policy mean a D&F is required for all contracts below \$1M (that the \$1M threshold no longer applies per DFARS 212)?

Answer: PARC Policy Alert # 12-66 requires the contracting officer to prepare a D&F that the acquisition meets the commercial item definition in FAR 2.101 for each acquisition, regardless of dollar value, that uses FAR part 12 procedures, except for acquisitions made pursuant to FAR 12.102(f)(1) (defense against or recovery from a nuclear, biological, radiological or Chemical attack). The extension of the D&F requirement to actions below \$1M is an Army policy that only applies to contracts signed by an Army contracting officer.

2. Question: For actions valued below \$1M will the approval level remain at one level above the contracting officer (per DFARS 212 for actions above \$1M)? This could potentially have a negative impact.

Answer: Regardless of the dollar value of the action, the approval level for the D&F is one level above the contracting officer when a commercial item determination relies on subsections (1)(ii), (3), (4), or (6) of the "commercial item" definition at FAR 2.101.

3. Question: To date there is no change to the DFARS and the alert does not indicate whether or not there will be an update to incorporate this change. Is a change to the DFARS forthcoming?

Answer: The extension of the D&F requirement to actions below \$1M, the standards for market research, and the standards for price reasonableness determinations are Army policies that only apply to contracts signed by an Army contracting officer. The AFARS will be modified to add these requirements. There is no forthcoming change to the DFARS on this topic.

#### **October 26, 2012 (REFLASH)**

All --- A question has surfaced regarding how to handle contract actions that were executed between 31 Aug 2012 and now. Should we go back and document the files with commercial item determinations? COL Bailey and I have discussed the issue. Our position is that you do NOT need to make any changes to files for contracts awarded in the intervening period that would have been covered by the new policy direction. If the issue surfaces in a future PMR, we will respond that policy implementation was delayed due to clarifying efforts with DASA(P). Our direction is to follow the policy requirements for all contracts AWARDED

AFTER OCTOBER 23, 2012, which will be captured as our official implementation date.